

1 BOIES SCHILLER FLEXNER LLP

2 David Boies (admitted pro hac vice)
 3 333 Main Street
 4 Armonk, NY 10504
 5 Tel.: (914) 749-8200
 6 dboies@bsflp.com

7 Mark C. Mao, CA Bar No. 236165
 8 Beko Reblitz-Richardson, CA Bar No.
 9 238027
 10 44 Montgomery St., 41st Floor
 11 San Francisco, CA 94104
 12 Tel.: (415) 293-6800
 13 mmao@bsflp.com
 14 brichardson@bsflp.com

15 James Lee (admitted pro hac vice)
 16 Rossana Baeza (admitted pro hac vice)
 17 100 SE 2nd St., 28th Floor
 18 Miami, FL 33131
 19 Tel.: (305) 539-8400
 20 jlee@bsflp.com
 21 rbaeza@bsflp.com

22 Alison L. Anderson, CA Bar No. 275334
 23 M. Logan Wright, CA Bar No. 349004
 24 725 S Figueroa St., 31st Floor
 25 Los Angeles, CA 90017
 26 Tel.: (213) 995-5720
 27 alanderson@bsflp.com
 28 mwright@bsflp.com

SUSMAN GODFREY L.L.P.

Bill Carmody (admitted pro hac vice)
 Shawn J. Rabin (admitted pro hac vice)
 Steven M. Shepard (admitted pro hac vice)
 Alexander Frawley (admitted pro hac vice)
 Ryan Sila (admitted pro hac vice)
 One Manhattan West, 50th Floor
 New York, NY 10001
 Tel.: (212) 336-8330
 bcarmody@susmangodfrey.com
 srabin@susmangodfrey.com
 sshepard@susmangodfrey.com
 afrawley@susmangodfrey.com
 rsila@susmangodfrey.com

Amanda K. Bonn, CA Bar No. 270891
 1900 Avenue of the Stars, Suite 1400
 Los Angeles, CA 90067
 Tel.: (310) 789-3100
 abonn@susmangodfrey.com

MORGAN & MORGAN

John A. Yanchunis (admitted pro hac vice)
 Ryan J. McGee (admitted pro hac vice)
 Michael F. Ram, CA Bar No. 104805
 201 N Franklin Street, 7th Floor
 Tampa, FL 33602
 Tel.: (813) 223-5505
 jyanchunis@forthepeople.com
 rmcgee@forthepeople.com
 mram@forthepeople.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, SAL CATALDO,
 JULIAN SANTIAGO, and SUSAN LYNN
 HARVEY individually and on behalf of all
 other similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No.: 3:20-cv-04688-RS

**DECLARATION OF MARK MAO IN
 SUPPORT OF PLAINTIFFS'
 OPPOSITION TO GOOGLE'S MOTION
 FOR SUMMARY JUDGMENT**

Judge: Hon. Richard Seeborg
 Courtroom 3 – 17th Floor
 Date: July 25, 2024
 Time: 1:30 P.M.

DECLARATION OF MARK MAO

I, Mark Mao, declare as follows.

1. I am a partner with the law firm of Boies Schiller Flexner LLP (“BSF”), counsel for Plaintiffs in this matter. I am an attorney at law duly licensed to practice before all courts of the State of California. I have personal knowledge of the matters set forth herein and am competent to testify.

2. I submit this Declaration in support of Plaintiffs' opposition to Google's motion for summary judgment.

3. Attached hereto as **Exhibit 1** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00149701.

4. Attached hereto as **Exhibit 2** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00024709.

5. Attached hereto as **Exhibit 3** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00151992.

6. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from the Expert Report of Plaintiffs' technical expert Jonathan Hochman, dated March 22, 2023. A full copy of Mr. Hochman's report is available at Dkt. 314-5.

7. Attached hereto as **Exhibit 5** is a true and correct excerpt of Google's Supplemental Responses to Plaintiffs' Interrogatories, Set One, dated November 5, 2021.

8. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the deposition transcript of Google Senior Director of Product Management Eric Miraglia, taken October 25, 2022.

9. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts from Google's Second Supplemental Responses and Objections to Plaintiffs' Interrogatories, Set Three, dated April 28, 2023, as well as true and correct copies of various bates-stamped versions of the WAA Help Page, which are referenced in the Interrogatory Response.

10. Attached hereto as **Exhibit 8** is a true and correct copy of Google's Privacy Policy effective May 25, 2018.

11. Attached hereto as **Exhibit 9** is a true and correct copy of Google's Privacy Policy effective January 22, 2019.

12. Attached hereto as **Exhibit 10** is a true and correct copy of Google's Privacy Policy effective October 15, 2019.

13. Attached hereto as **Exhibit 11** is a true and correct copy of Google's Privacy Policy effective December 19, 2019.

14. Attached hereto as **Exhibit 12** is a true and correct copy of Google's Privacy Policy effective March 31, 2020.

15. Attached hereto as **Exhibit 13** is a true and correct copy of Google's Privacy Policy effective July 1, 2020.

16. Attached hereto as **Exhibit 14** is a true and correct copy of Google's Privacy Policy effective August 28, 2020.

17. Attached hereto as **Exhibit 15** is a true and correct copy of Google's Privacy Policy effective September 30, 2020.

18. Attached hereto as **Exhibit 16** is a true and correct copy of Google's Privacy Policy effective February 4, 2021.

19. Attached hereto as **Exhibit 17** is a true and correct copy of Google's Privacy Policy effective July 1, 2021.

20. Attached hereto as **Exhibit 18** is a true and correct copy of Google's Privacy Policy effective February 10, 2022.

21. Attached hereto as **Exhibit 19** is a true and correct copy of Google's Privacy Policy effective October 4, 2022.

22. Attached hereto as **Exhibit 20** is a true and correct copy of Google's Privacy Policy effective December 15, 2022

1 23. Attached hereto as **Exhibit 21** is a true and correct copy of Google's Privacy Policy
2 effective July 1, 2023.

3 24. Attached hereto as **Exhibit 22** is a true and correct copy of Google's Privacy Policy
4 effective October 4, 2023.

5 25. Attached hereto as **Exhibit 23** is a true and correct copy of Google's Privacy Policy
6 effective November 15, 2023.

7 26. Attached hereto as **Exhibit 24** is a true and correct copy of Google's Privacy Policy
8 effective January 15, 2024.

9 27. Attached hereto as **Exhibit 25** is a true and correct copy of Google's Privacy Policy
10 effective February 8, 2024.

11 28. Attached hereto as **Exhibit 26** is a true and correct copy of Google's Privacy Policy
12 effective June 28, 2016.

13 29. Attached hereto as **Exhibit 27** is a true and correct copy of Google's Privacy Policy
14 effective August 29, 2016.

15 30. Attached hereto as **Exhibit 28** is a true and correct copy of Google's Privacy Policy
16 effective March 1, 2017.

17 31. Attached hereto as **Exhibit 29** is a true and correct copy of Google's Privacy Policy
18 effective April 17, 2017.

19 32. Attached hereto as **Exhibit 30** is a true and correct copy of Google's Privacy Policy
20 effective October 2, 2017.

21 33. Attached hereto as **Exhibit 31** is a true and correct copy of Google's Privacy Policy
22 effective December 18, 2017.

23 34. Attached hereto as **Exhibit 32** is a true and correct copy of excerpts from the
24 deposition transcript of Google's expert Donna Hoffman, taken July 11, 2023.

25 35. Attached hereto as **Exhibit 33** is a true and correct copy of a document Google
26 produced in discovery labeled GOOG-RDGZ-00210316.

1 36. Attached hereto as **Exhibit 34** is a true and correct copy of a document Google
2 produced in discovery labeled GOOG-RDGZ-00033245.

3 37. Attached hereto as **Exhibit 35** is a true and correct copy of excerpts from the
4 deposition transcript of former Google Senior Software Engineer Blake Lemoine, taken as part of
5 litigation in *Brown v. Google*, 20-cv-3664 (N.D. Cal.) on December 21, 2023. The deposition taken
6 in *Brown* was not marked confidential or highly confidential by Google. Plaintiffs disclosed Mr.
7 Lemoine as a witness in this case on October 4, 2023, after Mr. Lemoine contacted Plaintiffs'
8 counsel. Plaintiffs have requested the production of Mr. Lemoine's documents and have offered
9 him for deposition in this case, but Google has refused. Mr. Lemoine's deposition in Brown
10 reflects the testimony he would give if called to testify in this case.

11 38. Attached hereto as **Exhibit 36** is a true and correct copy of an enlarged version of
12 Google disclosures, as depicted on page 4 of Plaintiffs' opposition brief.

13 39. Attached hereto as **Exhibit 37** is a true and correct copy of correspondences
14 between counsel for Plaintiffs and Google in this case dated November 8, 2022.

15 40. Attached hereto as **Exhibit 38** is a true and correct copy of a document Google
16 produced in discovery labeled GOOG-RDGZ-00020556.

17 41. Attached hereto as **Exhibit 39** is a true and correct copy of Google's "Activity
18 Controls" page.

19 42. Attached hereto as **Exhibit 40** is a true and correct copy of a document Google
20 produced in discovery labeled GOOG-RDGZ-00208190.

21 43. Attached hereto as **Exhibit 41** is a true and correct copy of a document Google
22 produced in discovery labeled GOOG-RDGZ-00043294.R.

23 44. Attached hereto as **Exhibit 42** is a true and correct copy of Exhibit 15 used during
24 the deposition of Google's expert Donna Hoffman, taken July 11, 2023. This deposition exhibit is
25 a copy of the Google Privacy Policy, effective December 15, 2022.

1 45. Attached hereto as **Exhibit 43** is a true and correct copy of excerpts from the
2 deposition transcript of Plaintiffs' technical expert Jonathan Hochman, taken June 26, 2023.

3 46. Attached hereto as **Exhibit 44** is a true and correct copy of a document Google
4 produced in discovery labeled GOOG-RDGZ-00030007.R.

5 47. Attached hereto as **Exhibit 45** is a true and correct copy of a document Google
6 produced in discovery labeled GOOG-RDGZ-00029866.

7 48. Attached hereto as **Exhibit 46** is a true and correct copy of excerpts from a
8 document Google produced in discovery labeled GOOG-RDGZ-00060716.

9 49. Attached hereto as **Exhibit 47** is a true and correct copy of excerpts from the Expert
10 Report of Plaintiffs' privacy expert Bruce Schneier, dated February 20, 2023. A full copy of
11 Professor Schneier's report is available at Dkt. 314-6.

12 50. Attached hereto as **Exhibit 48** is a true and correct copy of a Google article titled
13 "How our display buying platforms share revenue with publishers", dated June 23, 2020, available
14 here: <https://blog.google/products/admanager/display-buying-share-revenue-publishers/>.

15 51. Attached hereto as **Exhibit 49** is a true and correct copy of a document Google
16 produced in discovery labeled GOOG-RDGZ-00188469.

17 52. Attached hereto as **Exhibit 50** is a true and correct copy of excerpts from the Expert
18 Report of Plaintiffs' damages expert Michael Lasinski, dated February 20, 2023. A full copy of
19 Mr. Lasinski's report is available at Dkt. 314-7.

20 53. Attached hereto as **Exhibit 51** is a true and correct copy of excerpts from Google's
21 Supplemental Response to Plaintiffs' Interrogatory No. 14, Set Six, dated March 30, 2023.

22 54. Attached hereto as **Exhibit 52** is a true and correct copy of excerpts from the
23 deposition transcript of Class Representative Julian Santiago, taken March 7, 2022.

24 55. Attached hereto as **Exhibit 53** is a true and correct copy of excerpts from the
25 deposition transcript of Class Representative Sal Cataldo, taken February 17, 2022.

1 56. Attached hereto as **Exhibit 54** is a true and correct copy of excerpts from the
2 deposition transcript of Class Representative Susan Lynn Harvey, taken October 27, 2022.

3 57. Attached hereto as **Exhibit 55** is a true and correct copy of excerpts from the
4 deposition transcript of Class Representative Anibal Rodriguez, taken October 16, 2022.

5 58. Attached hereto as **Exhibit 56** is a true and correct copy of a document Google
6 produced in discovery labeled GOOG-RDGZ-00181440.

7 59. Attached hereto as **Exhibit 57** is a true and correct copy of excerpts from the
8 deposition transcript of Google Software Engineer Christopher Ruemmler, taken September 9,
9 2022.

10 60. Attached hereto as **Exhibit 58** is a true and correct copy of a document Google
11 produced in discovery labeled GOOG-RDGZ-00130381.

12 61. Attached hereto as **Exhibit 59** is a true and correct copy of a document Google
13 produced in discovery labeled GOOG-RDGZ-00130745.

14 62. Attached hereto as **Exhibit 60** is a true and correct copy of a document Google
15 produced in discovery labeled GOOG-RDGZ-00144760.

16 63. Attached hereto as **Exhibit 61** is a true and correct copy of a document Google
17 produced in discovery labeled GOOG-RDGZ-00039114.

18 64. Attached hereto as **Exhibit 62** is a true and correct copy of a document Google
19 produced in discovery labeled GOOG-RDGZ-00087964.

20 65. Attached hereto as **Exhibit 63** is a true and correct copy of a document Google
21 produced in discovery labeled GOOG-RDGZ-00025811.

22 66. Attached hereto as **Exhibit 64** is a true and correct copy of a document Google
23 produced in discovery labeled GOOG-RDGZ-00044478.R.

24 67. Attached hereto as **Exhibit 65** is a true and correct copy of a document Google
25 produced in discovery labeled GOOG-RDGZ-00203679.

1 68. Attached hereto as **Exhibit 66** is a true and correct copy of a document Google
2 produced in discovery labeled GOOG-RDGZ-00020692.

3 69. Attached hereto as **Exhibit 67** is a true and correct copy of a document Google
4 produced in discovery labeled GOOG-RDGZ-00021160.

5 70. Attached hereto as **Exhibit 68** is a true and correct copy of excerpts from a
6 document Google produced in discovery labeled GOOG-RDGZ-00151484.

7 71. Attached hereto as **Exhibit 69** is a true and correct copy of a document Google
8 produced in discovery labeled GOOG-RDGZ-00090236.

9 72. Attached hereto as **Exhibit 70** is a true and correct copy of a document Google
10 produced in discovery labeled GOOG-RDGZ-00173562.

11 73. Attached hereto as **Exhibit 71** is a true and correct copy of a document Google
12 produced in discovery labeled GOOG-RDGZ-00117318.

13 74. Attached hereto as **Exhibit 72** is a true and correct copy of excerpts from the
14 deposition transcript of Google Product Manager David Monsees, taken September 15, 2022.

15 75. Attached hereto as **Exhibit 73** is a true and correct copy of excerpts from Google's
16 Responses to Plaintiffs' Requests for Admission 1, Set One, dated November 25, 2020.

17 76. Attached hereto as **Exhibit 74** is a true and correct copy of excerpts from the
18 deposition transcript of Google's expert Anindya Ghose, taken July 13, 2023.

19 77. Attached hereto as **Exhibit 75** is a true and correct copy of excerpts from the
20 deposition transcript of Google's expert Christopher Knittel, taken July 11, 2023.

21 78. Attached hereto as **Exhibit 76** is a true and correct copy of excerpts from the
22 deposition transcript of a Google Rule 30(b)(6) designee and Group Product Manager for Google
23 Analytics, Steve Ganem, taken October 28, 2022.

24 79. Attached hereto as **Exhibit 77** is a true and correct copy of a document Google
25 produced in discovery labeled GOOG-RDGZ-00092072.

80. Attached hereto as **Exhibit 78** is a true and correct copy of a document Google produced in discovery labeled GOOG-RDGZ-00001010.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 2nd day of May 2024, at San Francisco, California.

/s/ *Mark Mao*